

CITY COUNCIL, CITY OF LODI
CITY HALL COUNCIL CHAMBERS
DECEMBER 15, 1976

A regular meeting of the City Council of the City of Lodi was held beginning at 8:00 p.m., Wednesday, December 15, 1976, in the City Hall Council Chambers.

ROLL CALL

Present: Councilmen - EHRHARDT, KATNICH,
KATZAKIAN, PINKERTON and HUGHES
(Mayor)

Absent: Councilmen - None

Also Present: City Manager Graves, Assistant
City Manager Glenn, Public Works Director Ronsko,
Community Development Director Schroeder, City
Attorney Mullen and City Clerk Rejmche

INVOCATION

The invocation was given by Reverend Harold
Duncan, Century Assembly Church.

PLEDGE

Mayor Hughes led the Pledge of Allegiance to the flag.

PUBLIC HEARINGS

Notice thereof having been published in accordance
with law and affidavit of publication being on file in
the office of the City Clerk, Mayor Hughes called for
the public hearing to consider the City Planning
Commission's recommendation that the F-P, Flood
Plain Zoning District be amended to conform with the
adopted Open Space-Conservation Element of the
General Plan.

F-P AMENDED TO
CONFORM WITH
ADOPTED OPEN
SPACE CONSERVA-
TION ELEMENT OF
GENERAL PLAN

Community Development Director Schroeder intro-
duced the matter, stating that this proposed amend-
ment to Chapter 27 (Zoning Ordinance) of the Lodi
Municipal Code is intended to establish specific
restrictions on the use of those properties or
portions of properties which are situated both within
the Planning Area of the City of Lodi and within the
Mokelumne River Floodplain. Special regulation is
necessary for the protection of the public health,
safety, and general welfare, and of property and
improvements both within and without the floodplain
from hazards and damage resulting from flood
waters and to promote the Open Space Conservation
Element policies of the City's General Plan.

ORD. NO. 1091
INTRO.

There were no persons in the audience wishing to
speak either in favor of or in opposition to the matter
and the public portion of the hearing was closed.

Following discussion, Councilman Katzakian moved
introduction of Ordinance No. 1091 amending
Chapter 27 (Zoning Ordinance) of the Lodi Municipal
Code and thereby amending Section 27-12C Regulating
the Use of the Mokelumne River Floodplain. The
motion was seconded by Councilman Katnich and
carried by unanimous vote.

PLANNING COMMISSION

The City Manager gave the following report of the Planning Commission meeting of December 13, 1976:

The Planning Commission -

REQUEST TO
REZONE 119 N.
PLEASANT AVE,
FROM R-HD TO
C-P

1. Recommended the approval of the request of Mr. Victor Goehring, Attorney at Law, to rezone 119 North Pleasant Avenue from R-HD, High Density Multiple Family Residential to C-P, Commercial-Professional and determined that this rezoning is consistent with the General Plan,

On motion of Councilman Katzakian, Ehrhardt second, the matter was set for Public Hearing on January 5, 1977.

ITEMS OF INTEREST

The Planning Commission also;

1. Certified as adequate the Final Environmental Impact Report for a Use Permit request of Mr. Frank Alegre to construct a boat dock, sand beach and asphalt play area for family use at 1630 Edgewood Drive in the floodplain of the Mokelumne River.

2. Conditionally approved the request of Mr. Frank Alegre for a Use Permit to construct a boat dock, sand beach and asphalt play area for family use at 1630 Edgewood Drive in an area zoned F-P, Floodplain District.

3. Determined that a Zoning Hardship did not exist and denied the request of Mr. Oskar Hess for Variances to permit the erection of a 6-unit apartment house (1) to reduce the required off-street parking from 9 stalls to 6 stalls; (2) to reduce the required interior side yard from 5 feet to 2-1/2 feet to permit parking stall overhang; (3) to reduce the required front yard from 20 feet to 15 feet; and (4) to reduce the required rear yard on a corner parcel from 7-1/2 feet to 5 feet at 1041 South Hutchins Street in an area zoned R-MD, Medium Density Multiple Family Residential,

4. Determined that a Zoning Hardship did not exist and denied the request of Mr. Bill Stemler for a Variance to increase the allowable fence height from 3-1/2 feet to 4 feet along the Sunset Drive frontage of a parcel located at 1200 West Lodi Avenue in an area zoned R-1, Single-Family Residential.

5. Recommended that the San Joaquin County Board of Zoning Adjustment approve the request of Mr. Leroy Dollinger for a Use Permit for commercial firewood sales on the north side of State Route 12 (Kettleman Lane) 2130 feet west of Lower Sacramento Road in an area zoned GA-40, General Agriculture.

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6, Recommended that the San Joaquin County Board of Zoning Adjustment approve the request of Rocha's Mortuary for a Variance to reduce the required front yard from 20 feet to 0 feet to permit the installation of a double-faced, 3-foot by 6-foot pole sign at 5750 East Pine Street, the site of an existing mortuary and cemetery in an area zoned I-PA, Interim-Protected Agriculture.

7, Recommended that the San Joaquin County Planning Commission approve the request of Mrs. Eunice Benson and Mr. Stanley D. Kirst for a Division of Land to divide a 21.6-acre parcel with three parcels containing 1.7 acres, 17 acres and 2.9 acres, respectively, on the south side of Augusta Street, 300 feet west of Chestnut Street, Town of Woodbridge in an area zoned R-3, Multiple Family Residential.

INQUIRY RE CONFLICT
OF INTEREST RE
PROPOSED WOOD-
BRIDGE GOLF &
COUNTRY CLUB
SUBDIVISION

In response to an inquiry by Councilman Pinkerton at the December 8, 1976 Council meeting, City Attorney Mullen, in a written communication to the Council, concluded that City Council members, as well as members of the Planning Commission, may discuss and make recommendations regarding the rezoning of the Woodbridge Golf and Country Club property. City Attorney Mullen also recommended that prior to the discussions of the subject, if those members who do own a share of stock in the Mokelumne Land Development Company and are members of the Woodbridge Golf and Country Club disclose that fact, they would not then be prohibited from discussing the subject.

PROPOSED
WOODBIDGE GOLF
& COUNTRY CLUB
SUBDIVISION

Mr. Lindsay Marshall, Attorney-at-Law, 703 W. Pine Street, Lodi, California addressed the Council regarding the proposed Woodbridge Golf and Country Club Subdivision.

A copy of the map as filed with the County was presented by Mr. Marshall for Council's perusal. Mr. Marshall detailed the map for Council's information and apprised the Council that the proposal does conform with the County's General Plan,

Lengthy discussion followed, with questions regarding the project being directed by Council to Mr. Marshall and Staff.

Council, by its common consent, then concurred not to oppose the Woodbridge Golf and Country Club proposed subdivision.

COUNCIL PROTESTS
PRACTICE OF DMV
OF SELLING NAMES
& ADDRESSES OF
CITIZENS UPON RE-
QUEST TO ANY
INDIVIDUAL OR
COMPANY

City Clerk Reimche presented Resolution No. 76-220 of the City Council of the City of Carson which protests the practice of the Department of Motor Vehicles of selling the names and addresses of citizens upon request to any individual or company so requesting, and urging repeal of the law authorizing this practice.

Discussion followed on the matter, with Councilman Ehrhardt moving that Council also protest this practice and urge repeal of this law. The motion was seconded by Councilman Katnich and carried.

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APPLICATION FOR
ABC LICENSE

The City Clerk presented an Application for Alcoholic Beverage License for Amelia L. and Panfilo Ramirez, Three Aces Tavern, 111 N, Sacramento Street, Lodi, Person to Person Transfer, On Sale Beer and Wine Public Premises.

CITY OF EL MONTE
OPPOSES REDISTRI-
BUTION OF SALES
TAX REVENUES ON
BASIS OF 11-9
POPULATION

The City Clerk presented Resolution No. 76, 1954 of the City Council of the City of South El Monte Opposing the redistribution of sales tax revenues on the basis of population. Discussion followed with no action being taken by Council on the matter.

LODI TO HOST CVD
DINNER 11-1

Mayor Hughes presented a letter which had been received from the City of Riverbank confirming that the City of Lodi will host the quarterly meeting of the Central Valley Division of the League of California Cities to be held in Lodi on September 29, 1977.

PG&E CLAIM FOR
NON-PAYMENT OF
BILL

Following presentation by City Clerk Reimche of Pacific Gas and Electric Company's Claim for Money for Nonpayment of Bills which had been received December 14, 1976, Council deferred action on the item and asked that the matter be brought up with Agenda Item "i".

CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, the following actions hereby set forth between asterisks, on motion of Councilman Katnich, Ehrhardt second, were approved by Council.

CLAIMS 11-5

CLAIMS WERE APPROVED IN THE AMOUNT OF \$313, 116.80.

SPECS APPROVED
FOR ASPHALT
MATERIAL 11-30

COUNCIL APPROVED SPECIFICATIONS FOR ASPHALT MATERIAL FOR THE LAST HALF OF FISCAL YEAR 1976-77 AND AUTHORIZED THE PURCHASING AGENT TO ADVERTISE FOR BIDS THEREON.

AGREEMENT WITH
SP FOR 10" SANI-
TARY SEWER
CROSSING AT HAM
LANE APPRVD.

City Manager Graves apprised the Council that the construction of the Ham Lane Sanitary Sewer between Lockeford Street and Turner Road was approved in the 1976-77 Capital Improvement Budget. This project will necessitate crossing the Southern Pacific Tracks at Ham Lane just north of Holly Drive, and the City Manager presented an agreement with the Southern Pacific Transportation Company approving this 10" Sanitary Sewer crossing at Ham Lane.

RES. NO. 4301 11-2

RESOLUTION NO. 4301

RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY AND THE SOUTHERN PACIFIC TRANSPORTATION COMPANY FOR A 10" SANITARY SEWER CROSSING AT HAM LANE AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

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PLANS & SPECS FOR
DEMOLITION &
CLEARING OF
BUILDING AT 201 W,
PINE ST, APPRVD,

Plans and Specifications for "Building Demolition/Clearing, 201 W. Pine Street", (Turnage Market) were presented by City Manager Graves for Council approval,

Following discussion, on motion of Councilman Katzakian, Ehrhardt second, Council approved the Plans and Specifications for "Building Demolition/Clearing, 201 W. Pine, Lodi", setting the time of completion at 30 days and authorizing the City Clerk to advertise for bids thereon.

AWARD-RIVERGATE
DRIVE STORM
DRAIN

City Manager Graves presented bids which had been received for "Rivergate Drive Storm Drain, Turner Road to Mokelumne River" as follows:

RES. NO, 4302

BIDDER

AMOUNT

ABC Underground Construction	\$39,452.16
Teichert Construction	\$45,390.00
Ernest E. Pestana, Inc.	\$48,616.20
Claude C. Wood Co,	\$50,774.00
Valley Irrigation Co,	\$51,374.00
J. R. Pope, Inc.	\$56,991.50
Hunsaker Construction Co.	\$61,772.80
Cal Vada Construction & Plumbing Co,	\$68,082.00
J & W Pipelines, Inc,	\$69,542.00
M. L. Garten	\$78,759.60

Following discussion, on motion of Councilman Ehrhardt, Pinkerton second, Council adopted Resolution No. 4302 awarding the contract for "Rivergate Drive Storm Drain, Turner Road to Mokelumne River" to the low bidder, ABC Underground Construction in the amount of \$39,452.16.

LEAF COMPOSTING
PROPOSAL
APPROVED

City Manager Graves apprised the Council that for many years the City has dumped and disposed of accumulated leaves and garden refuse at the site of the former San Joaquin County disposal area located adjacent to the Southern Pacific Railroad right-of-way, south of the Mokelumne River in Lodi. An order has been received from the State to remove this material from the floodplain in that area which necessitates that a solution be found for the disposition of this material in an economical and feasible manner.

The City Manager then presented a proposal that had been received from Lodi Community Development and Services Agency to compost all of the City's leaves and for removal of the composted material from that site, which proposes the following:

1. To negotiate with the City of Lodi, a profit percentage of sales, in exchange for the use of a loader and operator to handle the material.
2. To develop, implement and maintain an invoice control system.

LEAF COMPOSTING
PROPOSAL
APPROVED(Contd.)

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3. To process the refuse, as leaf compost, those amounts available in the natural state.
4. To compost chemically, the bulk remaining and the newly collected refuse.
5. To market these products on an on-going basis.
6. To keep accurate accounts and records of the enterprise.
7. To make quarterly reports to the City of Lodi regarding the economic development enterprise,
8. To make monthly reports to the Lodi Community Development and Services Agency Board of Directors regarding the enterprise.
9. To utilize resource agencies and program personnel to a maximum extent.
10. To collect, compile and disseminate data pertaining to research being carried out regarding the utilization of solid sewerage sludge.
11. To plan and implement, on an experimental basis, a project which will utilize the City's accumulated garden refuse, dispose of by composting the newly collected refuse; by development of a model community garden for elderly residents of Lodi. Emphasis will be placed on youth involvement and participation in assistance to the Senior citizens,

Mrs. Bethea E. Wydner, Director, Lodi Community Development and Services Agency, Inc. addressed the Council supporting the proposal and answered questions regarding the matter as were directed by the Council.

The proposed procedure for the screening and loading of the composted material was outlined by Public Works Director Ronsko, who then answered questions regarding the matter as were directed by Council.

A lengthy discussion followed with questions regarding the matter being directed to Mrs. Wydner and Staff.

On motion of Councilman Pinkerton, Katnich second, Council approved the leaf composting proposal as submitted by the Lodi Development and Services Agency which would include the following conditions:

- (a) that the City would agree to advance to the Lodi Community Development and Services Agency the maximum sum of \$10,000.00, with an initial advance to be made in an amount necessary to initiate operation of the project,

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LEAF COMPOSTING
PROPOSAL
APPROVED(Contd.)

11/5/76

(b) that the City Manager be authorized to monitor the project and disburse additional funds as necessary to satisfy the budget.

(c) that the Lodi Community Development and Services Agency, Inc. obtain comprehensive Public Liability and Property Damage insurance and carry Workmen's Compensation insurance on their employees,

AWARD-TURF
MOWER FOR THE
PARKS DEPT.

Bids which had been received for a Turf Mower for the Parks Department were presented by the City Manager as follows:

RES. NO. 4303

<u>Bidder</u>	<u>Amount</u>
H. V. Carter - Jacobsen 72-inch	\$5172.80
*Optional water cooled engine	+500.00
Brady Holmes Co. - Toro	
Groundmaster 72-inch	\$5559.06
Western Lawn Equipment Co. -	
Hustler	\$6036.70

Mr. Graves reported that of these bids, the H. V. Carter Co. bid with the Jacobsen unit is the low bid. This machine comes equipped with an air cooled Kohler engine or an optional water cooled industrial engine at \$500.00 extra. Mr. Graves stated that it has been the City's experience that this type of engine is very expensive to maintain.

Discussion followed with questions regarding the matter being directed to Staff by the Council.

Councilman Katzakian moved that Council adopt Resolution No. 4303 awarding the bid for a Turf Mower for the Parks Department to the Brady Holmes Company for the Toro Groundmaster - 72-inch at a cost of \$5559.06. The motion was seconded by Councilman Ehrhardt and carried.

STREET TREE
POLICY ADOPTED

RES. NO. 4304

The City Manager apprised the City Council that since April 16, 1969, when the City's existing tree removal policy was adopted by the City Council, the City has had many questions come up concerning trees within the public right-of-way which were not answered by the existing policy. Because of this, Staff has drafted the following Street Tree Policy for Council's approval:

I. GENERAL

Trees which are 50% or more within the public right of way shall be considered City trees. This measurement shall be taken at the base of the trunk at the ground surface.

The City of Lodi is responsible for caring for all City trees within the public right of way including trimming, spraying and general maintenance.

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STREET TREE
POLICY ADOPTED

RES. NO. 4304
(Continued)

Property owners are responsible for any required watering of newly planted trees in parkways.

The City is not responsible for maintenance of non-City trees.

Property owners and City personnel are not allowed to remove or alter any City trees unless one of the criteria listed below is met or special approval is received from the City Council.

II, TREE REMOVAL

A. City Responsibility - The City will remove a City tree at its expense when:

1. Tree is dead;
2. Tree is diseased beyond cure;
3. Tree is hazardous to the public or necessary root surgery would render it hazardous;
4. Tree conflicts with sidewalk to be installed by property owners on parcels where curb and gutter is in place;
5. Tree removal is necessary for a City improvement project; or
6. Tree causes repeated extensive damage to underground utilities or curb, gutter and sidewalk.

B. Property Owner Responsibility - With the issuance of an encroachment permit by the Public Works Department, a tree within the public right of way may be removed under the following conditions at the property owner's expense:

1. Trees bearing fruit and causing a nuisance to the property owner may be removed. Trees in parkways will be replaced at City's expense as part of its tree planting program.
2. Trees may be removed to widen existing driveway or to construct a new driveway. Trees in parkways will be replaced at City's expense as part of its tree planting program.
3. Tree may be removed when less than 50% of the tree is within public right of way.
4. Trees may be removed as part of an approved development where curbs and gutters do not exist.

Discussion followed with questions regarding the proposed amended City Street Tree Policy being posed to Staff.

STREET TREE
POLICY ADOPTED

RES. NO. 4304
(Continued)

ELECTRIC RATES

Minutes of December 15, 1976, continued

On motion of Councilman Pinkerton, Katnich second, the City Council adopted Resolution No. 4304 approving the amended Street Tree Policy as heretofore outlined,

Mayor Hughes read aloud a Council Communication from W. C. Lewis, Utility Director, which reads in part as follows:

"Payment of October and November P.G.&E. bills in the amount of \$420,434.36 and \$423,690.62 respectively has been withheld on the advice of Washington attorney George Spiegel pending completion of impending negotiations with the P.G.&E. attorney. It now appears that an agreement with P.G.&E. will not be reached in sufficient time to pay the October and November bills in a timely manner.

"In order to promote continued negotiations and to dispel public fears of the termination of electric service by P.G.&E., it is recommended that the power bills calculated with the retail fuel adjustment cost be paid to P.G.&E. and the disputed fuel amount be deposited in a bank account earmarked for further payment to a mutually agreed escrow company when determined."

Calculations based on the recommendation of attorney George Spiegel, were presented for Council's perusal.

Mayor Hughes apprised the Council that the City is in receipt of late advice and counsel from the City's Washington attorney and suggested that the Council recess to executive session. The City Council recessed at 9:55 p.m. to Executive Session. Upon request, the City Clerk was excused from attending the Executive Session by Mayor Hughes.

The Council reconvened from Executive Session at 10:30 p.m.

Mayor Hughes opened the discussion by giving a brief update on events which had led to this dispute, explaining that the dispute centers around the fuel cost adjustment. The Mayor explained that the "direct pass through fuel cost adjustment charge is excessive and that the citizens of Lodi are paying approximately twice as much for that segment of their bills as their counterparts right outside the City limits are paying. The City of Lodi has chosen to challenge P.G.&E. on this with respect to the fairness and equity of that rate. If the City is successful in its dispute, that money suggested to be withheld will be returned directly to the citizens of Lodi and will represent a credit on their bills. The City of Lodi doesn't benefit a bit on its actions in this matter other than to protect the citizens, because they are paying more than P.G.&E.'s other customers,

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ELECTRIC RATES
(Continued)

Council discussion followed with Councilman Pinkerton suggesting that elected City officials meet with P.G.&E. executives to discuss the entire matter.

Mayor Hughes then moved that the City Council authorize the City to pay P.G.&E. an amount that has been calculated by taking the energy charge as P.G.&E. has billed the City and adding the fuel adjustment cost that is charged to the outlying retail customers which amounts to 7.74 mills per kilowatt hour and paying that amount for both the months of October and November thereby setting aside the November bill also and that those respective amounts would be paid directly to P.G.&E.; namely, October - \$323,481.94 and November \$324,778.56 and that the City pay the difference between the fuel cost that is being charged the retail customers and what is being charged to the citizens of Lodi, which represents an amount of \$96,952.42 for October and \$98,912.06 for the month of November into an interest bearing account in the name of the City of Lodi in a separate account in a local bank, which account is to be designated for payment of this disputed amount in the event that this matter is resolved at a figure different from that which the City set aside. The motion was seconded by Councilman Katnich.

Mr. E. O. Lightfoot, Manager, Pacific Gas and Electric Co., Lodi, California addressed the Council stating that he wished to clarify some of the statements which had been made. Mr. Lightfoot stated that P.G.&E. is a conduit also in that they buy oil to generate power from oil producers and that is what the City is buying and that is where the oil price comes from. Mr. Lightfoot concurred that the City's fuel cost adjustment to its citizens is higher, but that wasn't always true, stating that the fuel charge started in 1973 and until April 1975, the customers of P.G.&E. were paying more for oil than the City was. Mr. Lightfoot added that the fuel cost adjustment is designed to come out even, that all customers are going to pay the same price in the long run.

Mr. Lightfoot stated that "they" would be happy to consider a meeting such as that proposed by Councilman Pinkerton suggesting that Council direct a letter to him regarding such a meeting and that he would see that it is routed to the proper channels.

Mr. Lightfoot then restated P.G.&E.'s position that the bills that are presented to the City of Lodi are in accordance with the tariffs filed with the Federal Power Commission and approved there and that the bills are due and payable and become delinquent after 15 days. Any portion of the bill that is found unwarranted by the F.P.C. after you paid it and after

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ELECTRIC RATES
(Continued)

their review is refundable with an interest rate set by them - in this case it would be 9%. Mr. Lightfoot further explained that if the City paid P.G.&E. the \$95,000 each month that is in dispute, and it was found not to be justified, the City would receive 9% interest back on that money. If any portion of the bill is not paid as presented, then it is subject to a 7% interest charge, which would be due P.G.&E. if it were determined to be a warranted bill.

The question was then called for and the motion carried by unanimous vote.

PG&E CLAIM FOR
NONPAYMENT OF
BILL

On motion of Councilman Ehrhardt, Katzakian second, Council determined to take no action on the Pacific Gas and Electric Company's Claim for Money for Nonpayment of Bills which had been received by the City Clerk and referred the Claim to the City Attorney.

REAPPOINTMENTS
TO RECREATION
COMMISSION

On motion of Mayor Hughes, Katnich second, Mas Okuhara and David Hinchman were reappointed to serve another 4-year term on the Recreation Commission, which terms will expire December 31, 1980.

ORDINANCES

AMENDING
COLLECTION RATES
FOR GARBAGE
SERVICE

Ordinance No. 1090 entitled, "An Ordinance Amending Section 11-3 of the City Code of the City of Lodi entitled 'Collection Rates for Garbage Services' " having been introduced at an adjourned regular meeting held December 8, 1976 was brought up for passage on motion of Councilman Katzakian, Pinkerton second. Second reading was omitted after reading by title, and the ordinance was then passed, adopted and ordered to print by the following vote:

ORD. NO. 1090
ADOPTED

Ayes: Councilmen - Ehrhardt, Katnich, Katzakian, Pinkerton and Hughes

Noes: Councilmen - None

Absent: Councilmen - None

ANTIRECESSION
FISCAL ASSISTANCE
TO STATE & LOCAL
GOVERNMENTS

City Manager Graves briefed the Council on information that has been received on Antirecession Fiscal Assistance to State and Local Governments - Public Works Employment Act of 1976 (PL 94-369) Notification has been received from the Department of the Treasury which indicates that the Antirecession Allocation for the City of Lodi is under this Act for the July - September 1976 payment quarter and the October - December 1976 payment quarter totals \$40,081.00.

HOLIDAY GREETINGS
EXTENDED BY
COUNCIL

The City Council extended best wishes for a very Merry Christmas and Happy New Year to all citizens of Lodi.

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ADJOURNMENT

There being no other business to come before the Council, the meeting was adjourned by Mayor Hughes at approximately 10:55 p.m. on motion of Councilman Katnich, Ehrhardt second.

Attest: *Alice M. Reimche*
ALICE M. REIMCHE
CITY CLERK